

HOUSE JOURNAL

SEVENTY-EIGHTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

FORTIETH DAY (CONTINUED) — FRIDAY, MARCH 28, 2003

The house met at 9 a.m. and was called to order by the speaker pro tempore.

The roll of the house was called and a quorum was announced present (Record 135).

Present — Mr. Speaker; Allen; Alonzo; Bailey; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Canales; Capelo; Casteel; Castro; Chavez; Chisum; Christian; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Ellis; Farabee; Farrar; Flores; Flynn; Gallego; Garza; Gattis; Geren; Giddings; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Gutierrez; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Lewis; Luna; Mabry; Madden; Marchant; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Mercer; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega; Oliveira; Olivo; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smith; Solis; Solomons; Stick; Swinford; Talton; Taylor; Telford; Thompson; Truitt; Turner; Uresti; Van Arsdale; Villarreal; West; Wilson; Wise; Wohlgemuth; Wolens; Wong; Woolley; Zedler.

The invocation was offered by Pastor Monty E. Francis, Pleasant Olive Missionary Baptist Church, Waco, as follows:

Lord, today we thank you for the privilege of prayer. We believe that each time we come to you in prayer that it is not a mere formality but a mighty force. We pray for our nation today. We pray for our leaders and decision makers. We pray for our troops and our enemy. Lord, you are the prince of peace, and we ask that you would navigate the circumstances to bring a higher degree of peace, even through war and adversity.

Grant our president and his cabinet the wisdom that we truly need in times like these. Guide their decisions that they may be filled with altruism, humanitarianism, strength, and diplomacy. Father, we pray that even our adversaries would receive your grace and your mercy—that you would bring a resolve to this conflict which will result in freedom and equality for the citizens of Iraq. Lord, please protect our men and women who are fighting to protect American citizens. Keep watch over the families of our soldiers.

Now Lord, we ask that you would bless this day's agenda. Let today's legislative session be filled with your guidance. Grant this assembly your peace. This we pray in Jesus' name. Amen.

CAPITOL PHYSICIAN

The speaker pro tempore recognized Representative Van Arsdale who presented Dr. Timothy Irvine of Tomball as the "Doctor for the Day."

The house welcomed Dr. Irvine and thanked him for his participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

FIVE DAY POSTING RULE SUSPENDED

Representative Swinford moved to suspend the five day posting rule to allow the Committee on Government Reform to consider **HB 3003**, along with other bills posted for Monday, March 31.

The motion prevailed without objection.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business:

Gutierrez on motion of Solis.

HR 610 - ADOPTED

(by Flynn)

Representative Flynn moved to suspend all necessary rules to take up and consider at this time **HR 610**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 610, Honoring Debbie Stone and her Dinner Bell restaurant in Van.

HR 610 was adopted without objection.

HR 616 - ADOPTED

(by Gallego)

Representative Gallego moved to suspend all necessary rules to take up and consider at this time **HR 616**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 616, Convening the Texas House of Representatives in a memorial session honoring Representative Irma Rangel on March 31, 2003.

Amendment No. 1

Representative Gallego offered the following amendment to **HR 616**:

Amend **HR 616** by changing the time for the session to 9 a.m.

Amendment No. 1 was adopted without objection.

HR 616, as amended, was adopted without objection.

(Edwards in the chair)

CONGRATULATORY AND MEMORIAL CALENDAR

The following memorial resolutions were laid before the house:

HCR 40 was withdrawn.

HCR 52 (by Farabee), In memory of Minnie Rhea Wood of Wichita Falls.

HCR 53 (by Gallego, et al.), In memory of James H. Copp.

HR 19 (by Madden), In memory of Mildred Ross Willard McCool of Dallas.

HR 34 (by Marchant), In memory of the Honorable Jack Blanton of Carrollton.

HR 48 (by Pitts), In memory of Richard Blevins of Waxahachie.

HR 49 (by Campbell), In memory of Kenneth R. Epley of San Angelo.

HR 50 (by Campbell), In memory of Francile Morrill of San Angelo.

HR 53 was withdrawn.

HR 54 was withdrawn.

HR 67 (by Campbell), In memory of Walter C. Pope III of Sonora.

HR 75 (by Mowery), In memory of Jessard Aaron "Jimmy" Wisch.

HR 89 (by Madden and Paxton), In memory of William Carey Cox, Sr., of McKinney.

HR 103 (by Pitts), In memory of Shirley Anne Smith of Waxahachie.

HR 108 (by Bonnen), In memory of Carol Deering of Angleton.

HR 127 (by Ritter), In memory of Frances K. Monk, mayor of Port Neches.

HR 128 was previously adopted.

HR 172 (by Hochberg and Wong), In memory of Josef Minckberg of Houston.

HR 173 (by Smithee, Swinford, and Chisum), In memory of Stanley Wiley of Amarillo.

HR 204 (by J. Jones, Hodge, and Giddings), In memory of Bernice Green Conley.

HR 205 (by J. Jones), In memory of Charles Edward Lester of Dallas.

HR 208 (by J. Jones), In memory of Mary Carter of Dallas.

HR 279 (by Mabry), In memory of Michael Dohn Reesing of Waco.

The resolutions were unanimously adopted by a rising vote.

The following congratulatory resolutions were laid before the house:

HCR 54 (by J. Jones), Honoring Eli and Earlie Mae Davis of Dallas on their 50th wedding anniversary.

HCR 55 (by Lewis), Recognizing the National Bar Association's 23rd Annual Mid-Year Conference and the Gertrude E. Rush Award Dinner.

HR 12 (by Farrar), Commemorating the 75th anniversary of Jefferson Davis Senior High School in Houston and the dedication of its new library, cafeteria, and technology complex.

HR 13 (by Farrar), Honoring Tejas Office Products, Inc., of Houston on its 40th anniversary.

HR 17 (by Madden), Congratulating Barbara Salamone of Plano on being named Administrator of the Year by the Association of Texas Professional Educators.

HR 18 (by Madden), Honoring Linda Johnston of Plano on the occasion of her retirement as executive director of Practical Parent Education.

HR 30 (by Chisum), Commending Nucor Steel Bar Mill Group in Jewett for preserving the natural resources of Texas.

HR 31 (by Chisum), Recognizing Jim Darsey, vice president and general manager of Nucor Steel Bar Mill Group in Jewett, for his contributions to the environment and community.

HR 55 (by Madden, McCall, and Laubenberg), Congratulating Thomas H. Muehlenbeck on receiving the Lifetime Achievement Award from the Texas City Management Association.

HR 56 (by Menendez), Recognizing the 100th anniversary of Family Service Association of San Antonio.

HR 61 (by Giddings), Congratulating Albert C. Black, Jr., on his receipt of the Henry Cohn Humanitarian Award and commending him on his many successful and socially responsible endeavors.

HR 88 was withdrawn.

HR 90 (by Madden, Hill, and Goolsby), Honoring Ken Yarbrough on his retirement as Richardson chief of police.

HR 92 (by McClendon), Honoring the West Side Horns of San Antonio.

HR 93 (by McClendon), Honoring Monsignor Lawrence J. Stuebben of San Antonio for receiving the Leadership Award from Catholic Television of San Antonio.

HR 109 (by Pitts), Honoring Donald Patman on his service as president of the Texas Farm Bureau.

HR 113 (by Menendez), Honoring Franca Larsen of San Antonio on her retirement from Camp Oil Company.

HR 114 (by Harper-Brown), Recognizing the dedication and hard work of the Irving Lively Park Senior Activity Center's Advisory Council.

HR 115 was withdrawn.

HR 119 (by Deshotel and Hamilton), Honoring the Orange County Emergency Service District No. 2 Volunteer Fire Department on the 50th anniversary of its founding.

HR 129 (by Wise), Recognizing Martha Saenz for her selection as the City of Weslaco's 2002 Employee of the Year.

HR 138 was withdrawn.

HR 143 (by J. Keffer), Congratulating the Cisco Loboes football team on reaching the state finals.

HR 155 was withdrawn.

HR 180 (by Dawson), Honoring Thomas Samuel Dawson of Alvin on his 70th birthday.

HR 185 (by Ritter), Honoring Richard Courville of China, Texas, for receiving the Don Kelly "South East Texan of the Year" award.

HR 188 (by Hardcastle), Congratulating the Seymour FFA Meat Judging Team on winning first place at the National FFA Meat Judging Contest.

HR 193 (by Gutierrez), Congratulating the city of McAllen for selecting the red-bordered pixie as its official butterfly.

HR 197 (by Telford), Honoring Scott Ferguson on his retirement as executive director of the Region VIII Education Service Center.

HR 206 (by J. Jones), Commending Judy Richards of Duncanville for her outstanding commitment to her community.

HR 207 (by J. Jones), Honoring the Reverend C. J. R. Phillips, Jr., and Mrs. Esther Calhoun Phillips on their 25th anniversary with St. Phillips Missionary Baptist Church.

HR 209 (by J. Jones, Hodge, and Giddings), Congratulating the Good Street Baptist Church child-care ministry in Dallas on the occasion of its 50th anniversary.

HR 213 (by Menendez), Congratulating the boys basketball team of John Jay High School in San Antonio on winning the 2002 UIL Class 5A state championship.

HR 216 (by Hamilton), Congratulating the parents of River Noel Reinertsen-Forehand on the celebration of her birth.

HR 221 was withdrawn.

HR 234 (by Wise), Welcoming La Abuela Mexican Food to the community of Weslaco.

HR 242 (by Hunter), Congratulating Justin Snow of the Indianapolis Colts on his athletic achievements.

HR 243 (by Crownover), Honoring Denton Community Hospital on its receipt of the Texas Department of Health's Distinguished Certification Award.

HR 245 (by Farrar), Honoring Cleopatra Nia Williams of Houston on her artistic achievement.

HR 246 (by Farrar), Honoring Aaron Michael Grant of Houston for earning the rank of Eagle Scout.

HR 264 (by Delisi), Honoring Salado High School for winning the Conference 2A UIL Academic State Championship.

HR 267 (by Wise), Commending Officer Robert E. Lopez of the Weslaco Police Department for his courage and dedication to duty.

HR 268 (by Wise), Congratulating San Juan's Proyecto Azteca on being selected as a 2003 Families Count honoree.

HR 269 (by Wise), Honoring Weslaco on being named an All-America City for 2002.

HR 274 (by Farabee), Congratulating Elizabeth Perkins Prothro of Wichita Falls on her receipt of the Council for Independent Colleges Award for Philanthropy.

HR 277 (by Y. Davis), Honoring Joe Don Denton of Dallas for his service to the community.

HR 278 (by Eissler), Welcoming the St. Anthony of Padua Senior Pals to the State Capitol.

HR 305 (by Baxter), Commemorating the 25th anniversary of the founding of Cedar Creek Elementary School in Austin.

The resolutions were adopted without objection.

(Speaker pro tempore in the chair)

HR 510 - ADOPTED

(by B. Brown)

Representative B. Brown moved to suspend all necessary rules to take up and consider at this time **HR 510**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 510, Honoring Tom Ed Gooden for his outstanding contributions as the athletic director and head football coach at Terrell High School.

HR 510 was adopted without objection.

LOCAL, CONSENT, AND RESOLUTIONS CALENDAR SECOND READING

The following bills were laid before the house, read second time, and passed to third reading, and the following resolutions were laid before the house on committee report and adopted (members registering votes are shown following the caption):

HB 146 (by Solomons), A bill to be entitled An Act relating to jury duty on general election day.

HB 148 (by Solomons), A bill to be entitled An Act relating to the prohibition of the manufacture, sale, or possession of a counterfeit disabled parking placard; providing penalties.

HB 178 (by Ellis), A bill to be entitled An Act relating to immunity for certain governmental employees for an act or omission committed while supervising an inmate or offender program or activity.

HB 195 (by Griggs), A bill to be entitled An Act relating to the collection and distribution of delinquent ad valorem taxes imposed by county education districts.

HB 211 (by F. Brown), A bill to be entitled An Act relating to the purchase of insurance by certain municipalities through competitive bidding and proposal procedures.

HB 325 (by McCall), A bill to be entitled An Act relating to the punishment for the offense of failure to identify.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Keel, Representative McCall offered the following committee amendment to **HB 325**:

Amend **HB 325** by striking lines 6-10, in SECTION 1 of the bill and substituting the following:

(c) Except as provided by Subsection (d), an offense under this section is:

(1) a Class C misdemeanor if the offense is committed under Subsection (a); or

(2) a Class B misdemeanor if the offense is committed under Subsection (b).

(d) If it is shown on the trial of an offense under this section that the defendant was a fugitive from justice at the time of the offense, the offense is:

(1) a Class B misdemeanor if the offense is committed under Subsection (a); or

(2) a Class A misdemeanor if the offense is committed under Subsection (b).

Amendment No. 1 was adopted without objection.

CSHB 381 (by Dutton, Grusendorf, and Noriega), A bill to be entitled An Act relating to the computation of public school dropout and completion rates.

HB 402 (by Madden, et al.), A bill to be entitled An Act relating to a pilot program involving the use of an electronic registration system.

HB 403 (by Madden), A bill to be entitled An Act relating to the penalty for premature disclosure of voting results.

HB 470 (by Hochberg, Madden, and Burnam), A bill to be entitled An Act relating to the labeling, advertising, and sale of halal foods; providing a criminal penalty.

HB 501 (by Telford), A bill to be entitled An Act relating to the jurisdiction of the County Court of Marion County.

CSHB 522 (by Lewis), A bill to be entitled An Act relating to the allowable operating expenses of certain 9-1-1 emergency communication districts.

HB 535 (by R. Cook), A bill to be entitled An Act relating to a name change for and a change in the terms of the board of directors of the Colorado Valley Groundwater Conservation District.

HB 581 (by Crownover), A bill to be entitled An Act relating to the medication or drug testing of racing animals under the Texas Racing Act.

CSHB 629 (by Pitts), A bill to be entitled An Act relating to state agency auditing of software licenses for software installed at the agency.

HB 630 was withdrawn.

HB 687 was withdrawn.

HB 808 (by Seaman), A bill to be entitled An Act relating to the use of municipal hotel tax revenue collected by certain coastal municipalities.

HB 821 (by Goodman), A bill to be entitled An Act relating to the methods of providing notice of an associate judge's report in a suit affecting the parent-child relationship.

HB 630 (by Hilderbran, Casteel, Garza, and Canales), A bill to be entitled An Act relating to the designation of State Highway 173 between Kerrville and Jourdanton as the 173d Airborne Brigade Memorial Highway.

CSHB 839 (by Howard), A bill to be entitled An Act relating to a limitation on the future employment of a board member of certain water-related districts.

HB 858 (by Goodman), A bill to be entitled An Act relating to the salaries of judges of county courts at law and county criminal courts in Tarrant County.

HB 873 (by R. Cook), A bill to be entitled An Act relating to the rural volunteer fire department insurance program.

HB 883 (by Dutton), A bill to be entitled An Act relating to the powers of an associate judge under the Family Code.

HB 884 (by Dutton), A bill to be entitled An Act relating to alternative dispute resolution statements required in a suit for dissolution of a marriage and a suit affecting the parent-child relationship.

SB 469 (Casteel - House Sponsor), in lieu of **HB 934**, A bill to be entitled An Act relating to the composition of the Comal County Juvenile Board.

Representative Casteel moved to lay **HB 934** on the table subject to call.

The motion prevailed without objection.

HB 940 (by Chisum), A bill to be entitled An Act relating to the Hemphill County Hospital District.

HB 946 (by F. Brown), A bill to be entitled An Act relating to the permissible size of certain recreational vehicles operated on a public highway.

HB 988 (by F. Brown), A bill to be entitled An Act relating to the composition of the First and Fourteenth courts of appeals districts.

CSHB 1014 (by R. Cook), A bill to be entitled An Act relating to the purposes for which a special utility district may be created.

HB 1055 (by Luna and Seaman), A bill to be entitled An Act relating to an intercollegiate athletics fee at Texas A&M University—Corpus Christi.

HB 1065 (by R. Cook), A bill to be entitled An Act relating to the eligibility requirements to serve as a director of a groundwater conservation district.

CSHB 1066 (by Goodman), A bill to be entitled An Act relating to the continuance of the municipal court technology fund and the purposes for which the fund may be used.

HB 1078 (by Chisum), A bill to be entitled An Act relating to the election of directors of a soil and water conservation district.

CSHB 1120 (by Phillips), A bill to be entitled An Act relating to the competitive bidding requirement for the Greater Texoma Utility Authority.

HB 1138 (by Van Arsdale), A bill to be entitled An Act relating to nonprofit water supply and sewer service corporations in certain counties.

HR 596 - ADOPTED

(by Flores)

Representative Flores moved to suspend all necessary rules to take up and consider at this time **HR 596**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 596, Welcoming a delegation of student council members from E. B. Reyna Elementary School in La Joya to the State Capitol on March 28, 2003.

HR 596 was adopted without objection.

On motion of Representative Hardcastle, the names of all the members of the house were added to **HR 596** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Flores who introduced members of the E. B. Reyna Elementary School Student Council.

LOCAL, CONSENT, AND RESOLUTIONS CALENDAR (consideration continued)

HB 1150 (by Puente), A bill to be entitled An Act relating to the financing of certain local water, conservation, and open-space projects in accordance with the law governing sports and community venue projects.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Callegari, Representative Puente offered the following committee amendment to **HB 1150**:

Amend **HB 1150** by adding a new SECTION 3 to read as follows:

SECTION 3. Subchapter H, Chapter 334, Local Government Code, is amended by adding Section 334.2517 to read as follows:

Sec. 334.2517. Use of Revenue for Certain Purposes. This subchapter does not apply to the financing of a venue project described by Section 334.001 (4) (F).

Renumber subsequent Sections accordingly.

Amendment No. 1 was adopted without objection.

HB 1153 (by Puente), A bill to be entitled An Act relating to the retirement system for fire fighters and police officers in certain municipalities.

SB 519 (Allen - House Sponsor), in lieu of **HB 1190**, A bill to be entitled An Act relating to the interagency exchange of information regarding certain offenders.

Representative Allen moved to lay **HB 1190** on the table subject to call.

The motion prevailed without objection.

HB 1328 (by Phillips), A bill to be entitled An Act relating to cooperative federal and state wildlife-restoration projects.

HB 1472 (by Hartnett), A bill to be entitled An Act relating to the exercise of powers of appointment.

HB 1822 (by Kuempel), A bill to be entitled An Act relating to participation and credit in, contributions to, and benefits and administration of the Texas Municipal Retirement System.

HCR 13 (by West, Wise, Allen, et al.), Urging Congress to enact the Protect Children From E-Mail Smut Act of 2001.

HCR 14 (by West, Wise, Allen, et al.), Urging Congress to enact the Child Modeling Exploitation Prevention Act of 2002.

HCR 16 (by Flores), Designating tortilla chips and salsa as the official State Snack of Texas.

HR 332 (by Gattis), Granting permission to Texas Aggie Muster to use the chamber of the House of Representatives on April 21, 2003, between the hours of 6 p.m. and 10 p.m.

SB 330 (Capelo - House Sponsor), A bill to be entitled An Act relating to access to certain private medical information.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Defense Affairs and State-Federal Relations, upon first adjournment today, Desk 76, for a formal meeting, to consider **HB 545**, **HB 627**, and **HB 1040**.

Local Government Ways and Means, upon first adjournment today, Desk 73, for a formal meeting.

HR 620 - ADOPTED (by Laubenberg)

Representative Laubenberg moved to suspend all necessary rules to take up and consider at this time **HR 620**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 620, Honoring Raymond Cooper of Wylie on his 71st birthday.

HR 620 was adopted without objection.

ADJOURNMENT

Representative Bonnen moved that the house adjourn until 11:20 a.m. today.

The motion prevailed without objection.

The house accordingly, at 10:52 a.m., adjourned until 11:20 a.m. today.

